

RECEIVED
CENTRAL FAX CENTER

APR 11 2007

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 592-L	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] or facsimile transmitted to the USPTO on <u>04/11/07</u> . Signature <u>Phuong-Quan Hoang</u> Typed or printed name <u>Phuong-Quan Hoang</u>		Application Number 10/716,286	Filed 11/18/03
		First Named Inventor Sriram Devanathan	
		Art Unit 2165	Examiner Farhan M. Syed
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. 41,839 Registration number <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34		Signature <u>Phuong-Quan Hoang</u> Typed or printed name <u>Phuong-Quan Hoang</u> Telephone number <u>949-380-5643</u> Date <u>04/11/07</u>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Appl. No. 10/716,286
Pre-Appeal Brief Request for Review

RECEIVED
CENTRAL FAX CENTER

APR 11 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. No. : 10/716,286
Inventor(s) : Sriram Devanathan *et al*
Filed : 11/18/2003
TC/A.U. : 2165
Examiner : SYED, FARHAN M.

Confirmation No. 6071

Docket No. : 592-L
Customer No. : 34225

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office action mailed on January 11, 2007, Applicant would like to request a pre-appeal panel review of the application. This paper is being filed concurrently with a Notice of Appeal.

Remarks/Arguments begin on page 2 of this paper.

Appl. No. 10/716,286
Pre-Appeal Brief Request for Review

REMARKS/ARGUMENTS

Claims 1-38 are pending in the present application.

This request is in response to the Final Office Action mailed on January 11, 2007. In the Final Office Action, the Examiner rejected claims 15 and 27 (erroneously referred to as claim 21) under 35 U.S.C. §101; claims 1, 13, 15, 27 under 35 U.S.C. §102(b); and claims 2-12, 14, 16-26, 28-38 under 35 U.S.C. §103(a). Pre-appeal panel review of the application in light of the remarks/arguments made herein is respectfully requested.

Rejection Under 35 U.S.C. § 101

In the Final Office Action, the Examiner maintained his rejection of claim 15 under 35 U.S.C. §101 even though Applicant had amended independent claim 15 to limit claims 15 and its independent claims to machine-accessible storage medium in order to obtain a timely Notice of Allowance. Applicant would like to refer to the arguments presented in the response filed on October 12, 2006, page 25, lines 1-6.

In the Final Office Action, the Examiner maintained his rejection of system claim 27 (which was erroneously referred to as claim 21 in both the Office Action of May 12, 2006 and the Final Office Action) under 35 U.S.C. §101 without responding to Applicant's arguments presented in the response filed on October 12, 2006, page 25, item 2 (lines 7-22).

Rejections Under 35 U.S.C. § 102

1. In the Final Office Action, the Examiner rejected claims 1, 13, 15, 27 under 35 U.S.C. §102(b), as being anticipated by a non-patent literature titled "A Logical Design Methodology for Relational Database Using the Extended Entity-Relationship Model" by Toby J. Teorey *et al* ("Teorey"). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a prima facie case of anticipation.

2. In the Final Office Action, the Examiner further rejected claims 1, 13, 15, 27 under 35 U.S.C. §102(b), as being anticipated by a non-patent literature titled "Designing and Creating Relational Schemas with a CWM-Based Tool" by Kumpon Farpinyo *et al* ("Farpinyo"). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Appl. No. 10/716,286
Pre-Appeal Brief Request for Review

3. In the Final Office Action, the Examiner further rejected claims 1, 13, 15, 27 under 35 U.S.C. §102(e), as being anticipated by Shinjo (U.S. Patent Application Publication 2004/0133581 A1). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a prima facie case of anticipation.

There are several clear errors in the Examiner's rejections and arguments.

1) Teorey does not disclose, either inherently or explicitly, any of the elements of the independent claims 1, 13, 15, 27. Applicant would like to refer to the arguments presented in the response filed on October 12, 2006, pages 25-26, item 1 of section "Rejection under 35 U.S.C. §102(b)". Among other things, Teorey does not refer to the logical and/or physical aspects of CWM since CWM did not exist at the time Teorey was published, namely, 1986.

2) Farpinyo does not disclose, either expressly or inherently, any of the elements of the independent claims 1, 13, 15, 27. Applicant would like to refer to the arguments presented in the response filed on October 12, 2006, pages 26- 27, item 2 of section "Rejection under 35 U.S.C. §102(b)". Among other things, Farpinyo only deals with the physical aspects (also called CWM Relational) of CWM (see Farpinyo, page 456, last 2 lines). Thus, Farpinyo cannot possibly anticipate claims 1, 13, 27 which deal only with the logical aspects of CWM, and claim 15 which deals with both the logical and physical aspects of CWM.

3) Shinjo does not disclose, either expressly or inherently, any of the elements of the independent claims 1, 13, 15, 27. Applicant would like to refer to the arguments presented in the response filed on October 12, 2006, pages 27-28, section "Rejection under 35 U.S.C. §102(e)". Among other things, Shinjo does not refer to CWM at all.

4) Claims must be interpreted consistently with the specification:

Claims should be interpreted consistently with the specification, which provides context for the proper construction of the claims because it explains the nature of the patentee's invention. See Renishaw P.L.C. v. Marposs Societa Per Azioni, 158 F.3d 1243 (Fed. Cir. 1998).

Here, the input for the transformation, that is, the logic aspects of CWM which comprise the ER libraries, ER models, ER domains, , etc., and the corresponding output, that is, design items, are fully described in the specification. See, for example, Specification, page 6, lines 17-

Appl. No. 10/716,286
Pre-Appeal Brief Request for Review

26; page 7, lines 1-6, lines 13-23; page 12, lines 3-21; page 12, line 29 through page 19, line 5;
and Figures 2 through 11B.

Rejection Under 35 U.S.C. § 103(a)

In the final Office Action, the Examiner rejected claims 2-12, 14, 16-26, 28-38 under 35 U.S.C. §103(a) as being unpatentable over Teorey in view of Farpinyo. Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a prima facie case of obviousness.

5) Teorey and Farpinyo, taken alone or in any combination, do not disclose, suggest, or render obvious, any of the elements of claims 2-12, 14, 16-26, 28-38. Applicant would like to refer to the arguments presented in the response filed on October 12, 2006, pages 28-30, section "Rejection under 35 U.S.C. §103(a)".

Conclusion

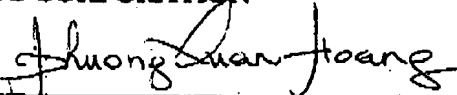
Applicant respectfully requests that the Review Panel render a decision allowing the application.

Respectfully submitted,

UNISYS CORPORATION

Dated: April 11, 2007

By


Phuong-Quan Hoang
Reg. No. 41,839
Tel.: 949-380-5643 (Pacific Coast)
Fax: 949-380-5254

Unisys Corporation
25725 Jeronimo Road, MS 400
Mission Viejo, CA 92691

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.84)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

FACSIMILE

deposited with the United States Postal Service
as first class mail in an envelope addressed to:
Commissioner for Patents, PO Box 1450,
Alexandria, VA 22313-1450.

☒ transmitted by facsimile to the Patent and
Trademark Office.

Date: April 11, 2007


Phuong-Quan Hoang

April 11, 2007

Date